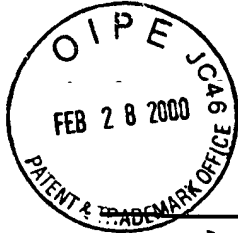


522 Rec'd PCT/PTO 28 FEB 2000

#3



PATENT APPLICATION
Docket Number: CRD0461

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

10 FEB 2000

Patent Staff
Inventor Division

Inventor: Hurtak, Mous, Nap
Serial Number: 09/424,440
Filed: November 23, 1999
Title: Glass Core Guidewire
Compatible With Magnetic
Resonance Having Reinforcing
Fibers
Group Art Unit: 5611
Examiner: L. Hunter

PETITION UNDER
37 CFR §1.47

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231 on: 2-22-00

By: Michael J. Portney, Attorney for Applicants

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notification of Missing Requirements Under 35 U.S.C. §371 dated January 19, 2000, regarding the patent application identified above, please review and grant the following petition:

37 C.F.R. § 1.47: Filing when an Inventor refuses to sign or cannot be reached.

According to 37 C.F.R. §1.47:

05/12/2000 WCLAYBRO 00000022 00750 09424440

01 50:115 110.00 C
02 50:122 120.00 C

"If a joint inventor refuses to join in an application for patent... the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor."

The parent of the present application was originally filed on June 6, 1997 in the Netherlands as application number 1006254, on behalf of the following joint inventors;

1. Wenzel Franz Hurtak;
2. Frans Mous; and
3. Cornelis Philipus Nap

The present PCT application was filed on May 28, 1998, on behalf of the same inventors.

Messrs. Mous and Hurtak have properly signed the Declaration and Power of Attorney for the present application. However, Mr. Nap has refused to sign the same document.

Background:

Mr. Nap began his employment with the assignee on July 18, 1977 and ended his employment with the assignee on November 1, 1998. His employment agreement in Dutch is attached, as well as an English translation of the relevant part, Paragraph 10. This provision states:

"You will cede to the Company all rights to patent applications in respect of all inventions made by you during the term of this Contract in which the Company may have any interest and in respect of which the right to apply for a patent does not rest with the Company pursuant to article 10 of the Patents Act."

During that time, Mr. Nap signed a PCT General Power of Attorney on April 2, 1998, a copy of which is enclosed.

The present Declaration and Power of Attorney was sent to the inventors on August 30, 1999. Messrs. Hurtak and Mous signed and dated these documents on September 2 and 20, 1999, respectively.

However, Mr. Nap returned the documents unsigned, and enclosed the attached letter in Dutch dated September 11, 1999, a translation of which is also attached. This letter states in relevant part:

"I decided not to satisfy your request to sign the document."

The present national phase application was then filed on November 23, 1999.

On February 7, 2000, the undersigned sent the attached letter confirming Mr. Nap's refusal to sign the Declaration, a copy of which is attached. No response has been received.

As required under 37 C.F.R. §1.47, the last known address of Mr. Nap is: Oude Streek 10, 9345 AG, Zevenhuizen, The Netherlands.

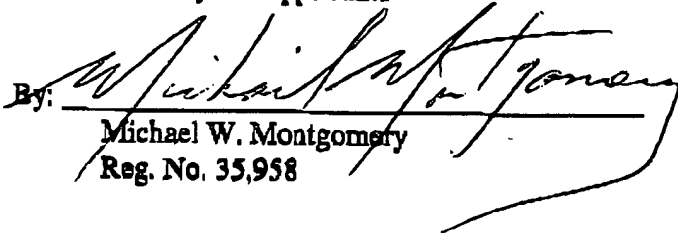
Accordingly, Applicant respectfully requests status under 37 C.F.R. § 1.47, and the retention of the filing date in the present application.

Respectfully submitted,
Attorney for Applicants

Date: February 22, 2000

Johnson & Johnson
Law Department
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933
(305) 824-2922

By:


Michael W. Montgomery
Reg. No. 35,958

09/424440



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS

Box PCT

Washington, D.C. 20231

U.S. APPLICATION NO. 097424,440	HURTAK	FIRST NAMED APPLICANT	CRD0461	ATTY DOCKET NO.
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RECEIVED

5611 JAN 24 2000

INTERNATIONAL APPLICATION NO. 09/006,186

AUDLEY A CIAMFORCERO
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

J & J PAT. INT. SECTION

FILING DATE 98

PRIORITY 6436/97

01/19/00

DATE MAILED

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

☐ a Designated Office (37 CFR 1.494).
☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☐ a non-English language.

☒ English.

☐ Translation of the international application into English.

☒ Oath or Declaration of inventors(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☒ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☐ Preliminary amendment(s) filed _____ and _____.

☐ Information Disclosure Statement(s) filed _____ and _____.

☐ Assignment document.

☒ Power of Attorney and/or Change of Address.

☐ Substitute specification filed _____.

☐ Statement Claiming Small Entity Status.

☐ Priority Document.

☒ Copy of the International Search Report ☐ and copies of the references cited therein.

☐ Other:

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

☒ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☒ PCT/DO/EO/917

☐ Notice of Defective Translation

☐ PTO-875

Lamont Hunter

National Stage Processing

FORM PCT/DO/EO/905 (December 1997)

Telephone: (703)

(703) 306-3686

09/424440



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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09/424,440

HURTAK

5611

W CRD0461

INTERNATIONAL APPLICATION NO.

PCT/US98/10864

I.A. FILING DATE

PRIORITY DATE

05/28/98

06/06/97

DATE MAILED:

01/19/00

AUDLEY A CIAMPORCERO
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION

This application fails to contain an oath or declaration acceptable under 35 U.S.C. 371 (c)(4) for entry into the national stage in the United States of America. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A new oath or declaration, identifying this application by the international application number and international filing date is required. The oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

1. ☒ is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. (*Third Inventor did not signed)
2. ☐ does not identify the specification to which it is directed.
3. ☐ does not identify the inventor(s).
4. ☐ does not identify the citizenship of each inventor.
5. ☐ does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

FAILURE TO SUBMIT AN OATH OR DECLARATION IN COMPLIANCE WITH 37 CFR 1.497(a) AND (b) WITHIN THE TIME PERIOD SET WILL RESULT IN FAILURE TO ENTER THE NATIONAL STAGE AND THE ABANDONMENT OF THE APPLICATION.

Additionally, the oath or declaration does not comply with 37 CFR 1.63 in that it:

1. ☐ does not identify the city and state or city and foreign country of residence or each inventor.
2. ☐ does not state that the person making the oath or declaration:
 - a. ☐ has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
 - b. ☐ acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. ☐ does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
4. ☐ does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the continuation in part application which discloses and claims subject matter in addition to that disclosed in the prior application (37 CFR 1.63(d)).

Patent Processing
305-2500

Telephone: (703)

FORM PCT/DO/EO/917 (September 1996)

Attn:

Karen Hesnick

Fax 1-305-824-2747

cordis

CORDIS EUROPA NV

Received/Ingekomen

6 JUN 1977

Cordis Europa N.V.

P.O. Box 38

Roden - The Netherlands

Phone: (0 59 08) 19876

Telex: 53592 cordi nl

Cardiovascular

Instrumentation

De heer C.P. Nap s.t.,
Castorstraat 14,
PURMEREND.

Roden, 25 mei 1977.

Geachte heer Nap,

Hierdoor bevestigen wij met u het volgende te zijn overeengekomen:

1. Per 18 juli 1977 zult u bij ons in dienst treden in de functie van Produktion Engineer.(nr, 1122-1002-1).
2. Uw salaris zal bedragen f3053,-- bruto per maand. Bij stijging van de kosten van levensonderhoud zal periodiek een aanpassing van uw salaris plaatsvinden volgens de daarvoor in de onderneming algemeen geldende regels.
3. Per kalenderjaar heeft u recht op een vakantie van 20 werkdagen, onverminderd de eventuele aanspraken op grond van speciale regelingen.
4. Per boekjaar (juli t/m juni) heeft u recht op een vakantietoeslag ten bedrage van 8% van twaalf maal het salaris in de maand juni. Ingeval van beëindiging van de dienstbetrekking zal het laatstgenoten maand-salaris basis zijn voor de berekening van de vakantietoeslag.
5. Onder de voorwaarden neergelegd in de voor Cordis medewerkers geldende winstdelingsregeling zult u aanspraak kunnen maken op een winstuitkering.

De heer C.P. Nap. Surmerend.

25 mei 1977.

blz. 2.

6. De vennootschap zal ten behoeve van u en voor haar rekening een ongevalen verzekering afsluiten.
7. Voor u zal een pensioenregeling worden afgesloten op de voorwaarden die omschreven zijn in het op 1 mei 1969 in werking getreden pensioenreglement van Cordis Europa N.V.
8. U zult worden opgenomen in de door de vennootschap afgesloten collectieve ziektekostenverzekering. Van de terzake verschuldigde premie zal 50 % voor rekening van de vennootschap komen.
9. Voor u en voor ons geldt dat de dienstbetrekking steeds kan worden opgezegd tegen het einde van iedere maand met inachtneming van een opzegtermijn van twee maanden.
10. Ten aanzien van alle uitvindingen door u tijdens de duur dezer overeenkomst gedaan, waarbij de vennootschap enig belang heeft en waarvan de aanspraak op octrooi haar niet reeds krachtens art. 10 der Octrooiwet toekomt, staat u de aanspraak op octrooi aan haar of een door haar aan te wijzen derde af, zonder dat zij verplicht is hiervoor enige vergoeding te geven boven en behalve het door u genoten salaris. Overigens bent u verplicht zodra u een uitvinding gedaan heeft deze onmiddellijk aan de vennootschap ter kennis te brengen en in het algemeen alle medewerking te verlenen en alle formaliteiten, waaronder het plaatsen van handtekeningen, te vervullen, welke naar de mening van de vennootschap nodig mochten zijn om haar in het genot van de betreffende octrooien te stellen of te handhaven. Waar mogelijk zal de vennootschap er voor zorg dragen, dat uw naam bij de op uw uitvindingen aan te vragen octrooien vermeld wordt, zonder nochtans voor verzuim aansprakelijk te zijn. De vennootschap is niet verplicht op uw uitvindingen octrooi aan te vragen.

De heer C.P. Nap, ~~Surmerend~~,

Cordis Europa N.V.

25 mei 1977.

blz. 3.

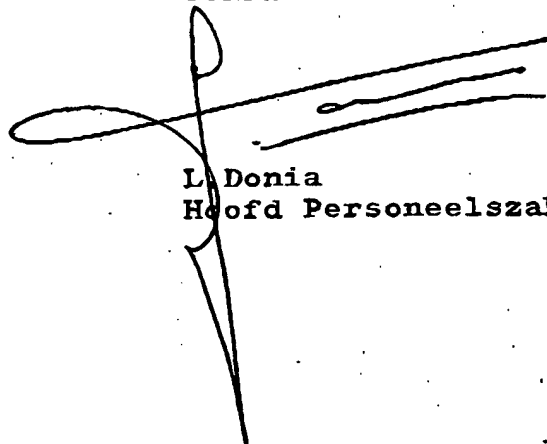
11. Zowel gedurende als na afloop van het dienstverband zult u strikte geheimhouding betrachten omtrent alles wat bij de uitoefening van uw functie ter uwer kennis komt in verband met de zaken en belangen in de vennootschap.

Ten bewijze, dat u zich met het vorenstaande kunt verenigen, verzoeken wij u bijgesloten kopie van dit schrijven voor akkoord getekend aan ons te retourneren.

Voor akkoord:



C.P. Nap.

Hoogachtend,
CORDIS EUROPA N.V.L. Donia
Hoofd Personeelszaken

LD/BW

Translation

You will cede to the Company all rights to patent applications in respect of all inventions made by you during the term of this Contract in which the Company may have any interest and in respect of which the right to apply for a patent does not rest with the Company pursuant to article 10 of the Patents Act (*Octrooiwet*). The Company shall not be obliged to recompense you for this in any way over and above the salary paid to you. You will further have a duty to notify the Company forthwith of any invention made by you and in general to cooperate fully and fulfil all formalities, including the placing of signatures, which may be necessary in the view of the Company in order that the Company shall be able to obtain or continue the relevant patents. Wherever possible the Company will ensure that your name is stated in any patent for which application is made in respect of an invention made by you; however, the Company shall not be liable for any failure so to do. The Company shall not be under any duty to apply for patents on any invention made by you.

GENERAL POWER OF ATTORNEY

(for several international applications filed under the Patent Cooperation Treaty)

-(PCT Rule 90.5)

The undersigned person(s)

(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

NAP, Cornelis Philipus
Oude Streek 10
9345 AG
Zevenhuizen
The Netherlands

hereby appoints (appoint) the following person as:



agent



common representative

Name and address

(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

MONTGOMERY, Michael W.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933
United States of America

to represent the undersigned before



all the competent International Authorities



the International Searching Authority only



the International Preliminary Examining Authority only

in connection with any and all international applications filed by the undersigned with the following Office

United States Patent and Trademark Office

as receiving Office

and to make or receive payments on behalf of the undersigned.

Signatures of the applicant(s) (where there are several applicants, each of them must sign; next to each signature, indicate the name of the person signing and the capacity in which the person signs, if such capacity is not obvious from reading the request or this power)



Cornelis Philipus Nap

Date:

980402.

Zevenhuizen, 11 September 1999

**Cordis Europa N.V.
att: M. De Tiège
Oosteinde 8
9300 AA Roden**

Dear Michel,

Enclosed I return the documents you sent me to sign.

Considering the differences in procedures Cordis is using with respect to patent applications and the processing of the same, I decided not to satisfy your request to sign the document.

In my opinion it is not correct to distinguish between employees and ex-employees.

Sincerely yours,

**Cees Nap
Oudestreek 10
9354AG Zevenhuizen**

C.P.Nap
Oudestreek 10
9354AG Zevenhuizen.

Zevenhuizen 1999-09-11

t.a.v. : De Heer M. de Tiège

Cordis Europa N.V.
Oosteinde 8
9300 AA Roden

Beste Michel,

Hierbij de mij ter ondertekening gestuurde papieren retour.

Gezien de verschillen in afhandeling die Cordis m.b.t. patentaanvragen en de afwikkeling daarvan hanteert, heb ik besloten niet aan jouw verzoek tot ondertekening te voldoen.

Het is m.i. onjuist om in deze onderscheid te maken tussen werknemers en ex-werknemers.

Met vriendelijke groet,


Cees Nap

Cordis

a Johnson-Johnson company

Cordis Corporation
14201 N.W. 60th Avenue
Miami Lakes, FL 33014
Phone (305) 824-2000
Fax (305) 824-2080

Mailing Address:
P.O. Box 025700
Miami, FL 33102-5700

February 7, 2000

Cornelis Philipus Nap
Oude Streek 10
9345 AG Zevenhuizen
The Netherlands

Re: Glass Core Guidewire Compatible With Magnetic
Resonance Having Reinforcing Fibers

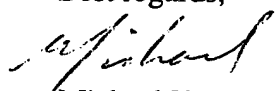
Dear Cees:

I hope this letter finds you well. We have received a copy of your letter to Michel de Tiege regarding the patent application identified above.

I understand that you refused to sign the Declaration and Power of Attorney as well as the Assignments that were sent to you. This letter confirms that you have refused to sign.

Best wishes in all of your endeavors.

Best regards,



Michael W. Montgomery